

IN THE HIGH COURT OF JUDICATURE,

ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 1327 of 2005

Between:

M/s Dessma Engineering Pvt Ltd, Survey No. 517 & 518, Kistapur Village, Medchal ,
Ranga Reddy . Rep. by its Authorized Signatory Mr. K. Mohan S/o K. Shankaraiah
aged 30years.

..... PETITIONER

AND

1. The Assistant Commissioner of Customs & Central Excise, Hyderabad K Division, Bowenpally, Secunderabad.
2. The Commissioner of Customs & Central Excise (Appeals) 7th Floor, Central Revenue Building, L.B. Stadium Road, Basheerbagh, Hyderabad.
3. Custom, Excise, Service Tax Appellate Tribunal, South Zonal Bench, FKCCI , WTC Building, K.G. Road, Bangalore (Karnataka).

4. The Joint Commissioner, Office of the Commissioner of Customs & Central Excise Department, Hyderabad, IV, Commissionerate, Posnette Bhavan, Ramkoti, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of mandamus or any other appropriate Writ order or direction under Article 226 of the Constitution of India in demanding the Central Excise Duty and penalty pursuant to the order passed by the 1st respondent in proceedings C.No. V/73/51/2003 Adjn dt. 20-11-2003 as illegal, arbitrary, contrary to law and consequently grant stay of collection of disputed Central Excise Duty and penalty as demanded by the IV respondent pursuant to the notice issued by him dt. 25-1-2005 pending disposal of the appeal before the III respondent and pass such other order or orders.

Counsel for the Petitioner: MR.TEJPRAKASH TOSHNIWAL.

Counsel for the Respondents: MR.ARAJASHEKAR REDDY, Standing Counsel for Central Government

The Court at the stage of admission made the following:

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THE HON'BLE SRI JUSTICE M.H.S.ANSARI

AND

THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

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W.P.NO.1327 OF 2005

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ORAL JUDGMENT:

(Per the Hon'ble Sri Justice M.H.S.Ansari)

As it is represented that an appeal has been filed before the 3rd respondent, we are of the view that parallel proceedings cannot be allowed to go on.

Accordingly, we are not inclined to entertain the instant writ petition. Same is dismissed with liberty to the petitioner to avail of such remedy before the appellate

forum as may be open to it with respect to the grievance made out in the instant writ petition regarding the recovery of disputed Central Excise duty pending disposal of the appeal before the 3rd respondent.

M.H.S.Ansari, J

T.Ch.Surya Rao, J

2nd February, 2005.
mrk

To

1. The Assistant Commissioner of Customs & Central Excise, Hyderabad K Division, Bowenpally, Secunderabad.
2. The Commissioner of Customs & Central Excise (Appeals) 7th Floor, Central Revenue Building, L.B. Stadium Road, Basheerbagh, Hyderabad.
3. The Registrar, The Custom, Excise, Service Tax Appellate Tribunal, South Zonal Bench, FKCCI , WTC Building, K.G. Road, Bangalore (Karnataka).

4. The Joint Commissioner, Office of the Commissioner of Customs & Central Excise Department, Hyderabad, IV, Commissionerate, Posnette Bhavan, Ramkoti, Hyderabad.
5. Two CD copies.